

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 3992 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARAGBHAI MAHENDRABHAI DALAL

Versus

STATE OF GUJARAT

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Appearance :

MR KB ANANDJIWALA for Applicant.

MS MEETA PANCHAL, APP for Respondent.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 07/05/2007

ORAL JUDGMENT

1. Despite qualified stay of further proceedings in Criminal Case No.2228/1985, as far as present petitioner was concerned, the further proceedings in the criminal case are stated to have not moved further at

all. Therefore, a grievance was made by learned counsel for the petitioner that, in the complaint filed in April 1985, even after filing of the charge sheet on 18-12-1985, and no case having been made out against the petitioner in the charge sheet papers supplied to the petitioner, the case was not proceeded further even for the purpose of committing it to the Sessions Court where the petitioner could be discharged under the provisions of Section 227 of the Code of Criminal Procedure, 1973 (for short, "the Code").

2. It was submitted by learned APP that, in a subsequent and further statement of the supposed victim of the offence punishable under Section 363 or 366 of the Indian Penal Code, the petitioner was named as the person who facilitated elopement of the other accused. She further submitted that further proceedings in respect of the other accused persons could not be taken up due to non-availability of some of the co-accused persons. Even after calling for the necessary information and instruction, it was submitted on behalf of the respondent that the present state of proceedings in the lower Court and the availability of the other accused persons was not known on account of the matter having become very old.

3. Thus, in short, this Court is called upon to examine the papers of investigation and exercise the powers of the Sessions Court for discharging the petitioner under Section 227 of the Code. Learned counsel Mr. Anandjiwala was at a loss to show how and why that course could be adopted and whether the delay in the proceedings could be a good ground for interference by this Court in the proceedings pending before the trial Court. However, he made a genuine grievance about pendency of the proceedings for 22 years without conclusion thereof in accordance with law.

4. Therefore, the petition is partly allowed so as to direct that the proceedings of Criminal Case No.2228/1985 pending in the Court of learned Metropolitan Magistrate, Ahmedabad shall be carried on and completed as expeditiously as practicable in accordance with law and preferably within six months from today. The petitioner shall be at liberty to apply for exemption from personal presence in the Court, except when required. With this observation and direction, the petition is disposed of. Rule is discharged and interim relief is vacated with no order as to costs.

(D.H.Waghela, J.)

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